
FINAL RECOMMENDATIONS FOR THE BOARD OF CHIROPRACTIC EXAMINERS

Recommendations of the Department of Consumer Affairs and the Joint Sunset Review Committee

ISSUE #1. (CONTINUE THE REGULATION OF THE PROFESSION?) Should the licensing and regulation of chiropractors be continued?

Recommendation #1: *Recommend the continued regulation of chiropractors in order to ensure public health and patient safety.*

Comments: Consumers should continue to have the assurance that chiropractors are properly licensed. Licensing chiropractors ensures that they have the necessary knowledge, skills, and abilities to provide care safely and effectively. Regulation of the profession also creates an enforcement structure so that appropriate action can be taken when misconduct occurs.

The Board of Chiropractic Examiners (Board or BCE) was created in December 1922 as the result of a ballot initiative approved by the voters of California. The Board regulates the practice of chiropractic care and licenses approximately 15,000 practitioners. Chiropractors provide non-drug, non-surgical health care through treatment of the musculoskeletal and nervous systems and manipulation of the spinal column and bony tissues. The Board also approves chiropractic schools and colleges whose graduates may apply for licensure in California. The Board has an annual budget of approximately \$2.5 million with a reserve of approximately \$4.7 million and 12.5 staff.

Of note, this Board is not situated within the Department of Consumer Affairs¹. The Board's stand-alone structure places it outside of the administrative services and oversight functions provided by the Department. As a result of this unique structure, the Department does not monitor the operations of the Board and is in a limited position to offer meaningful comment on its operation.

ISSUE #2. (CONTINUE THE BOARD?) Should the Board of Chiropractic Examiners be continued?

Recommendation #2: *Recommend the continuation of the Board.*

Comments: The DCA and the Joint Committee recommend retaining a Board for regulating the practice of chiropractic care.

¹ The Board of Chiropractic Examiners was created on December 21, 1922 as the result of an initiative measure approved by the voters of California on November 7, 1922. As a result, the Board is a stand-alone regulatory entity, not under the jurisdiction of the Department of Consumer Affairs.

The DCA notes that it has not been presented with any information suggesting a need to change the current regulatory structure for the chiropractic profession, and further reminds the JLSRC that the Department does not monitor this Board.

ISSUE #3. (SHOULD THE CHIROPRACTIC ACT BE CODIFIED IN STATUTE?) Should consumer protections which are currently applicable to other DCA health practitioners be applicable to chiropractors?

Recommendation #3: *All current and future provisions of the Business and Professions Code that apply to other health-related practitioners and licensing boards should also apply to chiropractors.*

Comments: Consumers who access health care services from chiropractors should have the same protections as other consumers.

All current and future provisions of the Business and Professions Code that apply to other health-related practitioners and licensing boards should also apply to chiropractors. Many of these are ministerial functions and do not represent significant policy changes or impact the scope of practice. Including chiropractors in these code sections will ensure consistency among health care providers.

All current California code sections relating to chiropractors should be reviewed to ensure constitutionality by ascertaining that any amendments to sections added by an initiative measure have been given proper approval by the electorate. (See, for instance, Proposition 103 Enforcement Project v. Quackenbush.)

Unlike the state's 32 other professional licensing programs that operate as semi-independent units of the Department of Consumer Affairs, the Chiropractic Board is completely independent of Department oversight. Nor is it subject to direct legislative authority. The JLSRC recommends that the BCE be treated the same as other licensing boards under the DCA, and that its initiative provisions be codified and subject to change or revision by the Legislature without having to seek a vote of the electorate.

ISSUE #4. (DELETE DCA'S REQUIREMENT TO REVIEW BCE?) Should the Department of Consumer Affairs be relieved of its requirement to review the Board of Chiropractic Examiners during sunset review?

Recommendation #4: *The Department recommends the requirement to review BCE be delegated to another state oversight agency, such as the Bureau of State Audits or the Legislative Analyst's Office.*

Comments: Although the Board of Chiropractic Examiners is not part of the DCA, the Department is statutorily mandated to review the Board during sunset review². DCA has only incidental knowledge of the Board's operations and is therefore unable to provide any meaningful assessment. It should also be noted that the Department's oversight of its regulatory boards is paid for by the boards. The Department believes that it is inappropriate to expect other regulated professions to assume the cost of reviewing the Board of Chiropractic Examiners.

² Business and Professions Code Section 473.15 (d)

Additional Joint Sunset Committee Recommendations

ISSUE #5. (CHANGE BOARD COMPOSITION?) Should the current composition and make-up of the Board, with 5 professional and 2 public members, be changed?

Recommendation #5: *The Joint Committee recommends adding two additional public members for a total of nine members (five professional and four public).*

Comments: This composition would provide adequate public representation while continuing to maintain the expertise needed for chiropractic issues. Requiring closer parity between public and professional members is consistent with both this Committee's and the Department's recommendations regarding other boards that have undergone sunset review.

The Board is unique in that all seven members of the board members are appointed by the Governor with no appointments made by the Legislature. The appointing authority for the two new appointments should be given to the Legislature – one to the Senate Rules Committee and one to the Speaker of the Assembly.

ISSUE #6. (FUND RESERVE IS EXCESSIVE.) Should the Board continue in its efforts to address its excessive fund reserve?

Recommendation #6: *The Joint Committee recommends that the Board continue with its plan to address excessive fund reserve by further strengthening their enforcement program and dealing with staffing shortages.*

Comments: The Board has maintained a fairly large reserve for the past four years as revenues have exceeded expenditures. The Board was told at the last sunset review that it needs to address this excessive fund reserve. In 1999, the Board had a reserve level of 24.77 months and projected continuous growth of reserves for the following fiscal years. Currently, the Board has estimated a reserve level of 25 months for FY 00-01, 27 months for FY 01-02, and 30 months for FY 02-03. The Board is aware that its reserve level exceeds the recommended three- to four-month reserve level. This is a unique situation for an oversight board – to the Committee's knowledge, no other board has a similar situation of extraordinary reserve surplus. In an effort to follow the Joint Committee's recommendation to spend down the reserve to recommended levels, the Board conducted an analysis of its fund and found that program enhancements would not adversely impact its future operations. These enhancements were suggested and, except for one regulatory staff position, were denied by the Department of Finance. The BCE has made an effort to comply with the previous recommendation, but has not yet achieved it due to Department of Finance not approving program enhancements.

ISSUE #7. (IMPROVE LICENSING RECIPROCITY?) Should the Board continue its efforts to improve on licensing reciprocity for applicants from other states and countries?

Recommendation #7: *The Board should review its current requirements for reciprocal licensure and implement more efficient and appropriate terms for establishing reciprocity.*

Comments: Section 5 of the Chiropractic Act and CCR 323 set forth requirements for reciprocal licensure. In order to assure that only competent practitioners are granted reciprocal licensure, applicants are required to must meet the following requirements in order to reciprocate to California.

- Must be graduates from a Board-approved chiropractic college, and must have completed the minimum hours and subjects required by California law at the time their licenses were issued.
- Must have passed an equivalent examination in each of the subjects examined in California in the same year as the applicant achieved licensure; i.e., clinical competency, adjustive technique, physiotherapy, and x-ray.
- Must have 5 years of chiropractic practice and must hold valid license from the state from which they are reciprocating; i.e., active and no disciplinary action.
- State from which they are reciprocating agrees to reciprocate with California.

The Board does not issue temporary licenses or permit. Thus, no reciprocity applicant may commence practice in California until all requirements for licensure are met. For a number of reasons, reciprocity licensure is very difficult to attain. Common problems reciprocity applicants encounter:

- Not examined in each of the subjects required in California at the time they were issued licenses; i.e., clinical competency, adjustive technique, physiotherapy, and x-ray.
- Did not receive scores of 75% or better in examination subject matter.
- Do not hold valid licenses (active and no disciplinary action) from states they are reciprocating from.
- Applicant's state will not reciprocate with California.

If applicants can not meet the requirements for reciprocity licensure, then the applicant apply for a California license as a new applicant. This often entails re-enrolling in classes and re-taking the national exams. A possible solution to exam equivalency problems that reciprocity applicants encounter would require amendment to Chiropractic Initiative Act. In lieu of requiring equivalent successful examination in each of the subjects examined in California in the same year as the applicant achieved licensure, instead, require passage of Parts I & II of the National Exam and passage of a 200-question, multiple choice Special Purposes Examination for Chiropractic (SPEC) administered by the National Board of Chiropractic Examiners. The SPEC examination is designed to assess only licensed or previously licensed practitioners in areas reflecting clinical conditions and general practice. Currently, 26 states use the SPEC in one form or another for reciprocity purposes.

ISSUE #8. (REQUIRE A BACHELORS DEGREE?) Should the Board establish that a Bachelors Degree be a requirement for licensure?

Recommendation #8: *The Joint Committee recommends that the Board continue to study this issue and report back to the Legislature on its findings.*

Comments: The Board is continually reappraising licensing requirements, including whether or not to require a bachelor's degree. Eight licensing jurisdictions have established bachelor's degree pre-professional training requirements – Florida, Kansas, Maryland, Montana, North Carolina, Rhode Island, Wisconsin, and the U.S. Virgin Islands. The bachelor's degree requirement issue has been a topic of debate for years by the Federation of Chiropractic Licensing Boards and CCE. To date, opposition of the chiropractic colleges and defenders of the status quo have blocked proposals to make a bachelor's degree requirement a national standard.

Since California licenses constitute approximately 19 percent of the nation's active chiropractors, any change in education requirements by this Board will be broadly felt and will become the basis for a national trend. However, in an effort to assure that Board action will not unnecessarily bar qualified individuals from entering the chiropractic profession, the Board will carefully assess the situation before proposing a change in education requirements that would require amending the act.